

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AARON MICHAEL JONES
Plaintiff

vs.

FCI BRADFORD CORRECTIONAL STAFF,
et al.
Defendants.

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C.A.No. 08-307 Erie

Magistrate Judge Baxter

OPINION AND ORDER¹

Plaintiff, an inmate within the federal correctional system, filed this civil rights action on November 5, 2008. By Order of this Court dated November 6, 2008, Plaintiff was directed to either pay the filing fee of \$350 or file a motion for leave to proceed in forma pauperis (along with the necessary supporting documentation). Plaintiff was warned that his failure to abide by that order could result in the dismissal of the action for failure to prosecute.

On November 7, 2008, Plaintiff filed a motion for leave to proceed in forma pauperis. Document # 3. However, Plaintiff's motion was not accompanied by the necessary documentation to support it. By Order of this Court dated November 13, Plaintiff was directed to file the institutional account statements before November 25, 2008. Again, Plaintiff was warned that his failure to abide by that order could result in the dismissal of the action for failure to prosecute.

On November 25, 2008, Plaintiff filed a motion to withdraw his motion for leave to proceed in forma pauperis which this Court granted. In that same order, Plaintiff was directed to pay the filing fee before December 18, 2008, or risk dismissal of this action for failure to prosecute.

¹ In accordance with the provisions of 18 U.S.C. § 636(c)(1), Plaintiff has voluntarily consented to have a United States Magistrate Judge conduct proceedings in this case, including entry of a final judgment. Due to Plaintiff's failure to prosecute, Defendants have not been served in this action.

On December 15, 2008, Plaintiff filed a motion for extension of time in which to pay the filing fee. This Court granted that motion and allowed Plaintiff until January 18, 2009 to pay the filing fee. Again, Plaintiff was warned that his failure to abide by the order could result in the dismissal of this action for failure to prosecute.

As of today's date, Plaintiff has failed to pay the filing fee.

The United States Court of Appeals for the Third Circuit has set out a six-factor balancing test to guide a court in determining whether dismissal of a case is appropriate. Poulis v. State Farm Fire and Casualty Correctional Officer., 747 F.2d 863 (3d Cir. 1984). The court must consider: 1) the extent of the party's personal responsibility; 2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; 3) a history of dilatoriness; 4) whether the conduct of the party or attorney was willful or in bad faith; 5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternative sanctions; and 6) the meritoriousness of the claim or defense. Id. at 868. Not all of the six factors need to weigh in favor of dismissal before dismissal is warranted. Hicks v. Feeney, 850 F.2d 152 (3d Cir. 1988).

Applying the Poulis factors to the present matter, this Court will dismiss this matter. Since the filing of this matter, Plaintiff has taken none of the necessary first steps to prosecute this case. Further, Plaintiff has ignored orders by this Court. Plaintiff is proceeding *pro se* and therefore bears all of the responsibility for any failure in the prosecution of his claims. Alternative sanctions, such as monetary penalties, are inappropriate with indigent parties. Although Plaintiff's allegations may state a claim upon which relief could ultimately be granted, the merits of the claim are impossible to determine at this early stage of the proceedings.

This case will be dismissed. An appropriate order follows.

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C.A.No. 08-307 Erie

Magistrate Judge Baxter

ORDER

AND NOW, this 26th day of January, 2009;

IT IS HEREBY ORDERED that this case is dismissed due to Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that all pending motions [Documents #5, 6, and 7] are dismissed as moot in light of the Opinion and Order issued today.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief U.S. Magistrate Judge